

(PRE-FILED)

By: **Delegates Arnick and Mandel**

Requested: August 27, 2003

Introduced and read first time: January 14, 2004

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Use of Hand-Held Telephone While Driving - Prohibition**

3 FOR the purpose of prohibiting the driver of a motor vehicle that is in motion from
4 using a telephone that is held by the driver; providing certain exceptions;
5 providing that the provisions of this Act may be enforced only as a secondary
6 action when a police officer detains a driver of a motor vehicle for a suspected
7 violation of another provision of the Code; prohibiting the imposition of liability
8 under this Act from being considered a moving violation for certain purposes;
9 providing that this Act supersedes certain local laws, ordinances, or regulations;
10 providing that this Act may only be enforced by certain measures during a
11 certain period of time; providing for the construction of this Act; providing for a
12 delayed effective date for certain provisions of this Act; providing a penalty for
13 the use of a telephone under prohibited circumstances; and generally relating to
14 prohibiting the driver of a motor vehicle from using a hand-held telephone
15 while the vehicle is in motion.

16 BY adding to
17 Article - Transportation
18 Section 21-1123
19 Annotated Code of Maryland
20 (2002 Replacement Volume and 2003 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Transportation
23 Section 27-101(a) and (b)
24 Annotated Code of Maryland
25 (2002 Replacement Volume and 2003 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Transportation

2 21-1123.

3 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A DRIVER OF
4 A MOTOR VEHICLE THAT IS IN MOTION MAY NOT OPERATE A TELEPHONE THAT IS
5 HELD BY THE DRIVER WHILE IN USE.

6 (B) THIS SECTION DOES NOT APPLY TO:

7 (1) A DRIVER CALLING THE 911 EMERGENCY TELEPHONE SYSTEM OR A
8 PUBLIC SAFETY AGENCY IN CONNECTION WITH AN EMERGENCY;

9 (2) AN EMPLOYEE OF AN ELECTRIC COMPANY, GAS COMPANY, OR
10 TELEPHONE COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES
11 ARTICLE, IN CONNECTION WITH EMERGENCY COMMUNICATIONS; OR

12 (3) AN OPERATOR OF AN EMERGENCY VEHICLE WHILE ACTING IN AN
13 OFFICIAL CAPACITY.

14 (C) A POLICE OFFICER MAY ENFORCE THE PROVISIONS OF THIS SECTION
15 ONLY AS A SECONDARY ACTION WHEN THE POLICE OFFICER DETAINS A DRIVER OF A
16 MOTOR VEHICLE FOR A SUSPECTED VIOLATION OF ANOTHER PROVISION OF THE
17 CODE.

18 (D) A VIOLATION OF THIS SECTION IS NOT A MOVING VIOLATION FOR THE
19 PURPOSE OF ASSESSING POINTS UNDER § 16-402 OF THIS ARTICLE.

20 (E) (1) THE STATE PREEMPTS THE RIGHT OF A POLITICAL SUBDIVISION TO
21 REGULATE THE OPERATION OF A TELEPHONE BY THE DRIVER OF A MOTOR VEHICLE.

22 (2) ALL RESTRICTIONS OR STANDARDS IMPOSED BY THE LAWS,
23 ORDINANCES, OR REGULATIONS OF A POLITICAL SUBDIVISION IN THE STATE THAT
24 GOVERN THE OPERATION OF A TELEPHONE BY THE DRIVER OF A MOTOR VEHICLE
25 ARE SUPERSEDED BY THIS SECTION.

26 27-101.

27 (a) It is a misdemeanor for any person to violate any of the provisions of the
28 Maryland Vehicle Law unless the violation:

29 (1) Is declared to be a felony by the Maryland Vehicle Law or by any
30 other law of this State; or

31 (2) Is punishable by a civil penalty under the applicable provision of the
32 Maryland Vehicle Law.

33 (b) Except as otherwise provided in this section, any person convicted of a
34 misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is
35 subject to a fine of not more than \$500.

1 SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act
2 shall take effect November 1, 2005.

3 SECTION 3. AND BE IT FURTHER ENACTED, That from November 1, 2005
4 until the end of December 31, 2005, the provisions of § 21-1123 of the Transportation
5 Article as enacted by this Act may be enforced only by the issuance of a warning that
6 informs the offender of the requirements of § 21-1123 of the Transportation Article.

7 SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act may
8 be construed to prevent a law enforcement officer from issuing a warning under this
9 Act on or after January 1, 2006 if the law enforcement officer believes the warning
10 would be in the public interest.

11 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
12 Section 2 of this Act, this Act shall take effect October 1, 2004.